

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

Industrial Relations Act 1999 - s. 698 - reprint of award

RETAIL TAKE-AWAY FOOD AWARD - SOUTH-EASTERN DIVISION 2003

Following the Declaration of the General Ruling in the 2010 State Wage Case (matter numbers B/2010/20 and B/2010/21), the Retail Take-Away Food Award - South-Eastern Division 2003 is hereby reprinted, pursuant to s. 698 of the *Industrial Relations Act 1999*.

I hereby certify that the Award contained herein is a true and correct copy of the Retail Take-Away Food Award - South-Eastern Division 2003 as at 1 September 2010.

Dated 1 November 2010.

[L.S.] G.D. Savill
Industrial Registrar

RETAIL TAKE-AWAY FOOD AWARD - SOUTH-EASTERN DIVISION 2003

PART 1 - APPLICATION AND OPERATION

1.1 Title

This Award is known as the Retail Take-Away Food Award - South-Eastern Division 2003.

1.2 Arrangement

Subject Matter	Clause No.
PART 1 - APPLICATION AND OPERATION	
Title	1.1
Arrangement	1.2
Date of operation	1.3
Award coverage	1.4
Definitions	1.5
Area of operation	1.6
Parties bound	1.7
PART 2 - FLEXIBILITY	
Enterprise flexibility	2.1
PART 3 - COMMUNICATION, CONSULTATION AND DISPUTE RESOLUTION	
Consultation	3.1
Grievance and dispute settling procedure	3.2
PART 4 - EMPLOYER AND EMPLOYEES' DUTIES, EMPLOYMENT RELATIONSHIP AND RELATED ARRANGEMENTS	
Employment categories	4.1
Part-time employees	4.2
Casual employees	4.3
Mixed functions	4.4
Incidental or peripheral tasks	4.5
Anti-discrimination	4.6
Sexual harassment	4.7
Termination of employment	4.8
Introduction of changes	4.9

Subject Matter	Clause No.
Redundancy	4.10
Continuity of service - transfer of calling	4.11
 PART 5 - WAGES AND RELATED MATTERS	
Queensland Minimum Wage	5.1
Definition of classifications	5.2
Wages	5.3
Payment of wages	5.4
Superannuation	5.5
Laundry allowance	5.6
 PART 6 - HOURS OF WORK, BREAKS, OVERTIME, SHIFT WORK, WEEKEND WORK	
Hours of work	6.1
Roster	6.2
Meals and meal times	6.3
Rest pauses	6.4
Penalty rates	6.5
Overtime	6.6
 PART 7 - LEAVE OF ABSENCE AND PUBLIC HOLIDAYS	
Annual leave	7.1
Sick leave	7.2
Long service leave	7.3
Bereavement leave	7.4
Family leave	7.5
Public holidays	7.6
Trade Union training leave	7.7
Jury service	7.8
 PART 8 - TRANSFERS, TRAVELLING AND WORKING AWAY FROM USUAL PLACE OF WORK	
Travelling expenses	8.1
 PART 9 - TRAINING AND RELATED MATTERS	
Training	9.1
Traineeship	9.2
 PART 10 - OCCUPATIONAL HEALTH AND SAFETY MATTERS, EQUIPMENT, TOOLS AND AMENITIES	
Uniforms	10.1
First aid	10.2
Staff amenities	10.3
 PART 11 - AWARD COMPLIANCE AND UNION RELATED MATTERS	
Union encouragement	11.1
Time and wages records	11.2
Right of entry	11.3
Posting of award	11.4

SCHEDULE

List of employers with 2nd Tier Orders which to varying degrees modify the provisions of this Award.

1.3 Date of operation

This Award takes effect from 13 October 2003.

1.4 Award coverage

1.4.1 This Award applies:

- (a) to all employees employed in all work in or in connection with the preparation and sale of meals, snacks and/or beverages which are sold to the public primarily to take away:
 - (i) where such work is carried out in shops or stores where this work is incidental to the primary role of the sale of consumer goods; and/or
 - (ii) in food service establishments which primarily provide a take away service where no alcohol is sold.
- (b) to all persons employed and/or to be employed in food services trading as "Pizza Hut"; and
- (c) to persons employed in the preparation and/or sale of take away food and/or beverages in food courts in shopping centres

within the South-Eastern Division of Queensland as described in clause 1.6.

- 1.4.2 (a) This Award shall have no application to employees employed by contract catering companies who work in or in connection with the preparation and sale of meals, snacks and/or beverages which are primarily sold to the public to be eaten on the premises or taken away.
- (b) This Award shall have no application to those employees to whom the Hospitality Industry - Restaurant, Catering and Allied Establishments Award - South-Eastern Division and the Fast Food Industry Award - South-Eastern Division, apply.

1.5 Definitions

1.5.1 The "Act" means the *Industrial Relations Act 1999*.

1.5.2 "Appropriate Level of Training" means:

- (a) completion of a training course deemed suitable according to guidelines issued through Tourism Training Australia for that particular classification. After 1 January 1992, such course to be accredited by the Australian Hospitality Review Panel;
- (b) that the employee's skills have been assessed to be at least the equivalent of those attained through the suitable course described in clause 1.5.1 (a) such assessment to be undertaken by a qualified skills assessor; or
- (c) that for a transitional period until 1 July 1995, the employee can be deemed to have the Appropriate Level of Training.
- (d) Any dispute arising in relation to this clause shall be resolved in accordance with the provisions of clause 3.2 (Grievance and dispute settling procedure).

1.5.3 "Casual Employee" means an employee who is paid by the hour and is usually engaged for less than 38 hours per week and/or persons engaged to work at the Brisbane Showgrounds in connection with the Royal Queensland Show.

1.5.4 "Commission" means the Queensland Industrial Relations Commission.

1.5.5 "Day" means the period from midnight to midnight on any one Day.

1.5.6 "Employees" means all classes of employees for whom rates of pay are prescribed herein and shall include shop assistants employed in soft drink shops and confectioners' shops.

1.5.7 "Part-time Employee" means an employee, not being a casual, who is engaged as such in pursuance of clause 4.3.

1.5.8 "Union" means the Shop Distributive and Allied Employees Association, (Queensland Branch) Union of Employees.

1.6 Area of operation

The South-Eastern Division of Queensland shall comprise the district within the following boundaries:

Commencing at Point Danger, and bounded then by the southern boundary of the State westerly to 151 degrees of east longitude; then by that degree of longitude bearing true north to 24 degrees 30 minutes of south latitude; then by that parallel of latitude bearing true east to the sea-coast; and then by the sea-coast southerly to the point of commencement; and all islands comprised in any State or Federal electorate in the South-Eastern Division of Queensland.

1.7 Parties bound

This Award is legally binding upon the employees as prescribed by clause 1.4.1 and their employers, and the Union and its members.

PART 2 - FLEXIBILITY

2.1 Enterprise flexibility

- 2.1.1 As part of a process of improvement in productivity and efficiency, discussion should take place at each enterprise to provide more flexible working arrangements, improvement in the quality of working life, enhancement of skills, training and job satisfaction and to encourage consultative mechanisms across the workplace
- 2.1.2 The consultative processes established in an enterprise in accordance with clause 2.1 may provide an appropriate mechanism for consideration of matters relevant to clause 2.1.1. Union delegates at the place of work may be involved in such discussions.
- 2.1.3 Any proposed genuine agreement reached between an employer and employee/s in an enterprise is contingent upon the agreement being submitted to the Commission in accordance with Chapter 6 of the Act and is to have no force or effect until approval is given.

PART 3 - COMMUNICATION, CONSULTATION AND DISPUTE RESOLUTION

3.1 Consultation

- 3.1.1 The parties to this Award are committed to co-operating positively to increase the efficiency, productivity and competitiveness of the industries covered by this Award and to enhance the career opportunities and job security of employees in such industries.
- 3.1.2 At each plant or enterprise, an employer, the employees and their relevant industrial organisation or industrial organisations commit themselves to establishing a consultative mechanism and procedures appropriate to the size, structure and needs of that plant or enterprise. Measures raised by the employer, employees or industrial organisation or industrial organisations for consideration consistent with the objectives of clause 2.1.1 herein shall be processed through that consultative mechanisms and procedures.

3.2 Grievance and dispute settling procedure

The matters to be dealt with in this procedure shall include all grievances or disputes between an employee and a employer in respect to any industrial matter and all other matters that the parties agree on and are specified herein. Such procedures shall apply to a single employee or to any number of employees

- 3.2.1 In the event of an employee having a grievance or dispute the employee shall in the first instance attempt to resolve the matter with the immediate supervisor, who shall respond to such request as soon as reasonably practicable under the circumstances. Where the dispute concerns alleged actions of the immediate supervisor the employee/s may bypass this level in the procedure.
- 3.2.2 If the grievance or dispute is not resolved under clause 3.2.1, the employee or the employee's representative may refer the matter to the next higher level of management for discussion. Such discussion should, if possible, take place within 24 hours after the request by the employee or the employee's representative.
- 3.2.3 If the grievance involves allegations of unlawful discrimination by a supervisor the employee may commence the grievance resolution process by reporting the allegations to the next level of management beyond that of the supervisor concerned. If there is no level of management beyond that involved in the allegation the employee may proceed directly to the process outlined at clause 3.2.5.
- 3.2.4 If the grievance or dispute is still unresolved after discussions listed in clause 3.2.2, the matter shall, in the case of a member of the Union, be reported to the relevant officer of the Union and the senior management of the employer or the employer's nominated industrial representative. An employee who is not a member of the Union may report the grievance or dispute to senior management or the nominated industrial representative. This should occur as soon as it is evident that discussions under clause 3.2.2 will not result in resolution of the dispute.
- 3.2.5 If, after discussion between the parties, or their nominees mentioned in clause 3.2.4, the dispute remains unresolved after the parties have genuinely attempted to achieve a settlement thereof, then notification of the existence of the dispute is to be given to the Commission in accordance with the provisions of the Act.
- 3.2.6 Whilst all of the above procedure is being followed, normal work shall continue except in the case of a genuine safety issue.
- 3.2.7 The *status quo* existing before the emergence of the grievance or dispute is to continue whilst the above

procedure is being followed.

- 3.2.8 All parties to the dispute shall give due consideration to matters raised or any suggestion or recommendation made by the Commission with a view to the prompt settlement of the dispute.
- 3.2.9 Any Order or Decision of the Commission (subject to the parties' right of appeal under the Act) will be final and binding on all parties to the dispute.
- 3.2.10 Discussions at any stage of the procedure shall not be unreasonably delayed by any party, subject to acceptance that some matters may be of such complexity or importance that it may take a reasonable period of time for the appropriate response to be made. If genuine discussions are unreasonably delayed or hindered, it shall be open to any party to give notification of the dispute in accordance with the provisions of the Act.

PART 4 - EMPLOYER AND EMPLOYEES' DUTIES, EMPLOYMENT RELATIONSHIP AND RELATED ARRANGEMENTS

4.1 Terms of engagement

- 4.1.1 Employees covered by this Award shall be advised in writing of their employment category upon appointment. In the case of Casual Employees such notification need only be supplied at the initial engagement and when that employee's employment category changes.

Employment categories are:

- (a) full-time;
- (b) part-time (as defined in clause 4.2); or
- (c) casual (as defined in clause 4.3).

- 4.1.2 The employment of all employees, other than Casual Employees, shall be by the week and termination of the employment by either party shall be in accordance with clause 4.8.

4.2 Part-time employees

- 4.2.1 Part-time employees shall be engaged for a minimum of 12 hours and a maximum of 35 hours in any one week and shall work on not more than 5 Days in any one week. Part-time employees shall work a minimum of 2 hours on any one Day and a maximum of ten hours on any one Day. The hours of work shall be continuous subject to clause 6.3 (Meals and Meal Times).

- 4.2.2 (a) A part-time employee shall be paid per hour at the rate of 1/38th of the weekly rate for the class of work performed.

- (b) By agreement in writing between the employer and the employee, a part-time employee shall be engaged to work a specified number of hours per week.

- 4.2.3 (a) Part-time employees who work in excess of 7.6 hours per Day (or in the case of employees to whom clause 6.1.2(a) applies, any work of ten hours per Day) shall be entitled to be paid overtime in accordance with clause 6.6 for such excess hours.

- (b) Any time worked by a part-time employee in excess of the ordinary daily or weekly hours prescribed by their roster or in excess of the specified number of hours agreed in writing between the employer and employee shall be classed as overtime and paid in accordance with clause 6.6 (Overtime).

- 4.2.4 Part-time employees shall be entitled to receive *pro rata* entitlements to annual leave, public holidays (on which the employee is normally rostered to work), sick leave, bereavement leave and long service leave in accordance with the provisions contained in this Award.

- 4.2.5 All provisions of this Award not expressly amended by clause 4.2 shall have application to part-time employees.

- 4.2.6 A part-time employee who was in receipt of a 10% loading as at the date of this Award is to continue to receive that loading for all ordinary hours worked.

4.3 Casual employees

- 4.3.1 A Casual Employee shall mean an employee who is engaged as such and who is employed by the hour.

- 4.3.2 The rate of pay for Casual Employees shall be 1/38th of the appropriate full-time rate prescribed in clause 5.3.2,

5.3.3 and 5.3.4 (whichever is relevant) with the addition of the appropriate loading, as prescribed by clause 4.3.2.

These loadings are payable separately and are not be compounded:

23% for all ordinary hours worked.

73% where the rate of pay is prescribed as time and a-half.

123% where the rate of pay is prescribed as double time.

4.3.3 The minimum period of engagement for a Casual Employee shall be 2 hours.

4.4 Mixed functions

Where an employee, other than a casual, on any one Day, performs 2 or more classes of work for which a differential rate is fixed by this award, such employee shall, if employed for more than 4 hours on a class of work attracting a higher rate, be paid for the whole period worked on that Day at such higher rate:

Provided that where an employee is engaged for 4 hours or less on a class of work attracting a higher rate as aforesaid, such employee shall be paid at such higher rate for 4 hours.

Clause 4.4 shall have no application where the employee concerned is performing duties at a higher level as part of an accredited course which has an on-the-job training component.

4.5 Incidental or peripheral tasks

4.5.1 An employer may direct an employee to carry out such duties as are reasonably within the limits of the employee's skill, competence and training.

4.5.2 An employer may direct an employee to carry out such duties and use such tools and equipment as may be required provided that the employee has been properly trained in the use of such tools and equipment.

4.5.3 Any direction issued by an employer pursuant to clauses 4.5.1 and 4.5.2 shall be consistent with the employer's responsibility to provide a safe and healthy working environment.

4.6 Anti-discrimination

4.6.1 It is the intention of the parties to this Award to prevent and eliminate discrimination, as defined by the *Anti-Discrimination Act 1991* and the *Industrial Relations Act 1999* as amended from time to time which includes:

(a) discrimination on the basis of sex, marital status, family responsibilities, pregnancy, parental status, age, race, impairment, religion, political belief or activity, trade union activity, lawful sexual activity and association with, or relation to, a person identified on the basis of any of the above attributes;

(b) sexual harassment; and

(c) racial and religious vilification.

4.6.2 Accordingly, in fulfilling their obligation under the dispute settling procedure in clause 3.2, the parties to the Award must take reasonable steps to ensure that neither the Award provisions nor their operation are directly or indirectly discriminatory in their effects.

4.6.3 Under the *Anti-Discrimination Act 1991* it is unlawful to victimise an employee because the employee has made or may make or has been involved in a complaint of unlawful discrimination or harassment.

4.6.4 Nothing in clause 4.6 is to be taken to effect:

(a) Any different treatment (or treatment having different outcomes) which is specifically exempted under the *Anti-Discrimination Act 1991*;

(b) an employee, employer or registered organisation, pursuing matters of discrimination, including by application to the Human Rights and Equal Opportunity Commission/Anti-Discrimination Commission Queensland.

4.7 Sexual harassment

4.7.1 All employees are to be allowed to work in an environment free of sexual harassment.

4.7.2 No employer or employee shall act in a manner contrary to the provisions of the *Anti-Discrimination Act 1991*

(Queensland) and the *Federal Sex Discrimination Act*.

4.8 Termination of employment

4.8.1 Statement of employment

An employer shall, in the event of termination of employment, provide upon request to the employee who has been terminated a written statement specifying the period of employment and the classification or type of work performed by the employee.

4.8.2 Termination by employer

- (a) An employer may dismiss an employee only if the employee has been given the following notice:

Period of Continuous Service	Period of Notice
Not more than 1 year	1 week
More than 1 year but not more than 3 years	2 weeks
More than 3 years but not more than 5 years	3 weeks
More than 5 years	4 weeks

- (b) In addition to the notice in (a) above, employees 45 years old or over and who have completed at least 2 years' continuous service with the employer shall be entitled to an additional week's notice.

- (c) Payment in lieu of notice shall be made if the appropriate notice is not given:

Provided that employment may be terminated by part of the period of notice specified and part payment in lieu thereof.

- (d) In calculating any payment in lieu of notice the minimum compensation payable to an employee will be at least the total of the amounts the employer would have been liable to pay the employee if the employee's employment had continued until the end of the required notice period. The total must be worked out on the basis of:

- (i) the ordinary working hours to be worked by the employee; and
- (ii) the amounts payable to the employee for the hours including for example allowances, loadings and penalties; and
- (iii) any other amounts payable under the employee's employment contract.

- (e) The period of notice in this clause shall not apply in the case of dismissal for misconduct or other grounds that justify instant dismissal, or in the case of a casual employee, or an employee engaged by the hour or day, or an employee engaged for a specific period or tasks.

4.8.3 Notice of termination by employee

The notice of termination required to be given by an employee shall be the same as that required of an employer, save and except that there shall be no additional notice based on the age of the employee concerned. If an employee fails to give notice, the employer shall have the right to withhold monies due to the employee with a maximum amount equal to the amount the employee would have received under clause 4.8.2.

4.8.4 Time off during notice period

During the period of notice of termination given by the employer, an employee shall be allowed up to one day's time off without loss of pay for the purpose of seeking other employment. This time off shall be taken at times that are convenient to the employee after consultation with the employer.

4.9 Introduction of changes

4.9.1 Employer's duty to notify

- (a) Where an employer decides to introduce changes in production, program, organisation, structure or technology, that are likely to have significant effects on employees, the employer shall notify the employees who may be affected by the proposed changes and, where relevant, their Union or Unions.

- (b) 'Significant effects' includes termination of employment, major changes in the composition, operation or size of the employer's workforce or in the skills required; the elimination or diminution of job opportunities or job tenure; the alteration of hours of work; the need for retraining or transfer of employees to other work or locations and the restructuring of jobs:

Provided that where the Award makes provision for alteration of any of the matters referred to herein an alteration shall be deemed not to have significant effect.

4.9.2 *Employer's duty to consult over change*

- (a) The employer shall consult the employees affected and, where relevant, their Union or Unions about the introduction of the changes, the effects the changes are likely to have on employees (including the number and categories of employees likely to be dismissed, and the time when, or the period over which, the employer intends to carry out the dismissals), and the ways to avoid or minimise the effects of the changes (e.g. by finding alternative employment).
- (b) The consultation must occur as soon as practicable after making the decision referred to in clause 4.9.1.
- (c) For the purpose of such consultation the employer shall provide in writing to the employees concerned and, where relevant, their Union or Unions, all relevant information about the changes including the nature of the changes proposed, the expected effects of the changes on employees, and any other matters likely to affect employees:

Provided that any employer shall not be required to disclose confidential information, the disclosure of which would be adverse to the employer's interests.

4.10 **Redundancy**

4.10.1 *Consultation before terminations*

- (a) Where an employer decides that the employer no longer wishes the job the employee has been doing to be done by anyone, and this is not due to the ordinary and customary turnover of labour, and that decision may lead to termination of employment, the employer shall consult the employee directly affected and where relevant, their Union or Unions.
- (b) The consultation shall take place as soon as it is practicable after the employer has made a decision, which will invoke the provisions of clause 4.10.1(a) and shall cover the reasons for the proposed terminations, measures to avoid or minimise the terminations and/or their adverse effects on the employees concerned.
- (c) For the purpose of the consultation the employer shall, as soon as practicable, provide in writing to the employees concerned and, where relevant, their Union or Unions, all relevant information about the proposed terminations including the reasons for the proposed terminations, the number and categories of employees likely to be affected, the number of workers normally employed and the period over which the terminations are likely to be carried out:

Provided that any employer shall not be required to disclose confidential information, the disclosure of which would be adverse to the employer's interests.

4.10.2 *Transfer to lower paid duties*

- (a) Where an employee is transferred to lower paid duties for reasons set out clause 4.10.1 the employee shall be entitled to the same period of notice of transfer as the employee would have been entitled to if the employee's employment had been terminated under clause 4.8.
- (b) The employer may, at the employer's option, make payment in lieu thereof of an amount equal to the difference between the former amounts the employer would have been liable to pay and the new lower amount the employer is liable to pay the employee for the number of weeks of notice still owing.
- (c) The amounts must be worked out on the basis of:
 - (i) the ordinary working hours to be worked by the employee; and
 - (ii) the amounts payable to the employee for the hours including for example, allowances, loadings and penalties; and
 - (iii) any other amounts payable under the employee's employment contract.

4.10.3 *Transmission of business*

- (a) Where a business is, whether before or after the date of insertion of this clause in the Award transmitted from an employer (transmittor) to another employer (transmittee), and an employee who at the time of such transmission was an employee of the transmittor of the business, becomes an employee of the transmittee:

- (i) the continuity of the employment of the employee shall be deemed not to have been broken by reason of such transmission; and
 - (ii) the period of employment which the employee has had with the transmitter or any prior transmitter shall be deemed to be service of the employee with the transmittee.
- (b) In clause 4.10.3, 'business' includes trade, process, business or occupation and includes a part or subsidiary (which means a corporation that would be taken to be a subsidiary under the Corporations Law, whether or not the Corporations Law applies in the particular case) of any such business and 'transmission' includes transfer, conveyance, assignment or succession whether by agreement or by operation of law and 'transmitted' has a corresponding meaning.

4.10.4 Time off during notice period

- (a) Where a decision has been made to terminate an employee in the circumstances outlined in clause 4.10.1, the employee shall be allowed up to one day's time off without loss of pay during each week of notice for the purpose of seeking other employment.
- (b) If the employee has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment, the employee shall, at the request of the employer, be required to produce proof of attendance at an interview or the employee shall not receive payment for the time absent. For this purpose a statutory declaration will be sufficient.

4.10.5 Notice to Centrelink

Where a decision has been made to terminate employees in the circumstances outlined in clause 4.10.1, the employer shall notify Centrelink as soon as possible giving all relevant information about the proposed terminations, including a written statement of the reasons for the terminations, the number and categories of the employees likely to be affected, the number of workers normally employed and the period over which the terminations are intended to be carried out.

4.10.6 Severance pay

- (a) In addition to the period of notice prescribed for ordinary termination in clause 4.8.2(a), and subject to further order of the Commission, an employee whose employment is terminated for reasons set out in clause 4.10.1(a), shall be entitled to the following amounts of severance pay:

Period of Continuous Service	Severance Pay (weeks' pay)
Less than 1 year	nil
1 year but not more than 2 years	4
More than 2 years but not more than 3 years	6
More than 3 years but not more than 4 years	7
More than 4 years but not more than 5 years	8
More than 5 years but not more than 6 years	9
More than 6 years but not more than 7 years	10
More than 7 years but not more than 8 years	11
More than 8 years but not more than 9 years	12
More than 9 years but not more than 10 years	13
More than 10 years but not more than 11 years	14
More than 11 years but not more than 12 years	15
More than 12 years	16

- (b) 'Weeks' Pay' means the ordinary time rate of pay for the employee concerned:

Provided that the following amounts are excluded from the calculation of the ordinary time rate of pay: overtime, penalty rates, disability allowances, shift allowances, special rates, fares and travelling time allowances, bonuses and any other ancillary payments.

4.10.7 Superannuation benefits

An employer may make an application to the Commission for relief from the obligation to make severance payments in circumstances where:

- (a) the employer has contributed to a superannuation scheme which provides a particular benefit to an employee in a redundancy situation; and
- (b) the particular benefit to the employee is over and above any benefit the employee might obtain from any legislative scheme providing for superannuation benefits (currently the federal Superannuation Guarantee levy) or an award based superannuation scheme.

4.10.8 *Employee leaving during notice*

An employee whose employment is terminated for reasons set out in clause 4.10.1(a), may terminate such employment during the period of notice, and, if so, shall be entitled to the same benefits and payments under this clause had such employee remained with the employer until the expiry of such notice:

Provided that in such circumstances the employee shall not be entitled to payment in lieu of notice.

4.10.9 *Alternative employment*

An employer, in a particular case, may make application to the Commission to have the general severance pay prescription amended if the employer obtains acceptable alternative employment for an employee.

4.10.10 *Employees with less than one year's service*

Clause 4.10 shall not apply to employees with less than one year's continuous service and the general obligation on employers should be no more than to give relevant employees an indication of the impending redundancy at the first reasonable opportunity, and to take such steps as may be reasonable to facilitate the obtaining by the employees of suitable alternative employment.

4.10.11 *Employees exempted*

Clause 4.10 shall not apply:

- (a) where employment is terminated as a consequence of misconduct on the part of the employee; or
- (b) to employees engaged for a specific period or task(s); or
- (c) to casual employees.

4.10.12 *Employers exempted*

- (a) Subject to an order of the Commission, in a particular redundancy case, clause 4.10 shall not apply to an employer including a company or companies that employ employees working a total of fewer than 550 hours on average per week, excluding overtime, Monday to Sunday. The 550 hours shall be averaged over the previous 12 months.
- (b) A 'company' shall be defined as:
 - (i) a company and the entities it controls; or
 - (ii) a company and its related company or related companies; or
 - (iii) a company where the company or companies has a common Director or common Directors or a common shareholder or common shareholders with another company or companies.

4.10.13 *Exemption where transmission of business*

- (a) The provisions of clause 4.10.6 are not applicable where a business is before or after the date of the insertion of this clause into the Award, transmitted from an employer (transmittor) to another employer (transmittee), in any of the following circumstances:
 - (i) where the employee accepts employment with the transmittee which recognises the period of continuous service which the employee had with the transmittor, and any prior transmittor, to be continuous service of the employee with the transmittee; or
 - (ii) where the employee rejects an offer of employment with the transmittee:
 - (A) in which the terms and conditions are substantially similar and no less favourable, considered on an overall basis, than the terms and conditions applicable to the employee at the time of ceasing employment with the transmittor; and
 - (B) which recognises the period of continuous service which the employee had with the transmittor and any prior transmittor to be continuous service of the employee with the transmittee.
- (b) The Commission may amend clause 4.10.13(a)(ii) if it is satisfied that it would operate unfairly in a particular case, or in the instance of contrived arrangements.

4.10.14 *Incapacity to pay*

An employer in a particular redundancy case may make application to the Commission to have the general severance pay prescription amended on the basis of the employer's incapacity to pay.

PART 5 - WAGES AND RELATED MATTERS

5.1 Queensland Minimum Wage

5.1.1 The Queensland Minimum Wage

No employee other than those at the introductory level, shall be paid less than the Queensland Minimum Wage.

5.1.2 Amount of Queensland adult minimum wage

- (a) Queensland Minimum Wage for full-time adult employees not covered by clause 5.1.4 is \$431.40 per week.
- (b) Adults employed under the Supported Wage Award - State shall continue to be entitled to receive the wage rates determined under that Award:

Provided that such employees shall not be paid less than the amount determined by applying the percentage in the Supported Wage Award - State applicable to the employee concerned to the amount of the minimum wage specified in clause 5.1.2(a).

- (c) Adults employed as part-time or Casual Employees shall continue to receive the wage rates determined under the casual and part-time clauses of the Award:

Provided such employees shall not be paid less than *pro rata* the minimum wage specified in clause 5.1.2 according to the number of hours worked.

5.1.3 How the Queensland Minimum Wage applies to juniors

The wage rates provided for juniors by this Award continue to apply unless the amount determined under clause 5.1.2(a) is greater than:

- (a) the Queensland Minimum Wage for an employee to whom a junior wage rates clause is determined by applying the percentage in the junior wage rates clause applicable to the employee concerned to the relevant amount in clause 5.1.2.

5.1.4 Application of Queensland Minimum Wage to special categories of employees.

- (a) Clause 5.1 has no application to a trainee or apprentice under the *Training and Employment Act 2000*.
- (b) Leave reserved for other special categories].

5.1.5 Application for Queensland Minimum Wage to award rates calculation.

The Queensland Minimum Wage:

- (a) to all work in ordinary hours;
- (b) applies to the calculation of overtime and all other penalty rates, superannuation, payments during sick leave, long service leave and annual leave and for all other purposes of this Award.

5.2 Definitions of classification

5.2.1 Food and Beverage Stream -

- (a) "Food and Beverage Attendant Grade 1" shall mean an employee who is engaged in any of the following:

- picking up glasses;
- emptying ashtrays;
- general assistance to Food and Beverage Attendants of a higher grade not including service to customers;
- removing food plates;
- setting and wiping down tables; and

- monitoring, cleaning and tidying of associated areas during normal opening hours where such duties are incidental to the employees main duties.
- (b) "Food and Beverage Attendant Grade 2" shall mean an employee who has not achieved the Appropriate Level of Training and who is engaged in any of the following:
- undertaking of general waiting duties of both food and/or beverages including cleaning of tables and restaurant equipment;
 - receipt of monies;
 - selling of specialist stock lines;
 - attending a snack bar;
 - engaged on delivery duties;
 - general receipt and distribution of goods;
 - taking reservations, greeting and seating guests under general supervision;
 - assist in maintenance of dress standards and good order in the establishment; and
 - setting up on site for small parties.
- (c) "Food and Beverage Attendant Grade 3" shall mean an employee who has the Appropriate Level of Training and is engaged in any of the following:
- undertaking general waiting duties of food, including cleaning of tables;
 - receipt of monies;
 - selling of specialist stock lines;
 - supplying, dispensing or mixing of liquor;
 - taking reservations, greeting and seating guests;
 - general security including security of keys and supervision of dress standard maintenance and good order in the establishment;
 - assisting in the training and supervision of Food and Beverage Attendants of a lower grade; and
 - setting up on site for small parties.
- (d) "Food and Beverage Attendant Grade 4" shall mean an employee who has the Appropriate Level of Training and is engaged in the following:
- supervision and training of food and beverage attendants of a lower grade.
- (e) "Food and Beverage Attendant Grade 6" shall mean an employee who has the Appropriate Level of Training including a supervisory course and who is engaged in the following:
- responsibility for the supervision, training and co-ordination of food and beverage staff;
 - responsibility for the maintenance of service and operational standards.

5.2.2 *Kitchen Stream* -

- (a) "Kitchen Attendant Grade 1" shall mean an employee engaged in any of the following:
- general cleaning duties within a kitchen or food preparation area, including the cleaning of cooking and general utensils used in a kitchen and restaurant;
 - assisting employees who are cooking;
 - assembly and preparation of ingredients for cooking;

- preparation of salad ingredients and/or distribution to a salad bar; and
 - general pantry duties.
- (b) "Kitchen Attendant Grade 2" means an employee who has the Appropriate Level of Training, and who is engaged in any of the following:
- specialised non-cooking duties in a kitchen or food preparation area;
 - assisting in the supervision and training of Kitchen Attendants; and
 - general receipt and distribution of goods.
- (c) "Kitchen Attendant Grade 3" shall mean an employee who has the Appropriate Level of Training including a supervisory course, and who is engaged in the following:
- responsibility for the supervision, training and co-ordination of Kitchen Attendants of a lower grade.
- (d) "Cook Grade 1" shall mean an employee who is engaged in the following:
- cooking of breakfasts and snacks, baking, pastry cooking or butchering.
- (e) "Cook Grade 2" shall mean an employee who has the Appropriate Level of Training and who is engaged in any of the following:
- cooking duties including baking, pastry cooking or butchering; and
 - setting up of an on site kitchen.
- (f) "Cook (Tradesperson) Grade 3" shall mean an employee who has completed an apprenticeship or who has passed the appropriate trade test, and who is engaged in any of the following:
- cooking, baking, pastry cooking or butchering duties; and
 - setting up of an on site kitchen.
- (g) "Cook (Tradesperson) Grade 4" shall mean an employee who has completed an apprenticeship or has passed the appropriate trade test and who is engaged in any of the following:
- general or specialised cooking, butchering, baking or pastry cooking duties; and
 - supervision and training of other cooks or kitchen employees.
- (h) "Cook (Tradesperson) Grade 5" shall mean an employee who has completed an apprenticeship or has passed the appropriate trade test in cooking, butchering, baking or pastry cooking and has completed additional appropriate training and who performs any of the following:
- general and specialised cooking, butchering, baking or pastry cooking duties;
 - supervision and training of other cooks and kitchen employees;
 - ordering and stock control; and
 - sole responsibility for other cooks and kitchen employees including co-ordination in a single kitchen establishment.

5.2.3 Introductory Level shall be applicable if an employee has not achieved the Appropriate Level of Training and has less than 3 months experience either in the restaurant and catering industry or in another industry where the employee performed work similar to that which the employee is required to perform under this Award.

5.3 Wages

5.3.1 Subject to clause 5.1, the minimum rates of wages payable to the undermentioned levels of employees shall be as set out hereunder.

5.3.2 The relativities of the various levels within their respective streams is as follows:

Level	%	Food &	Kitchen	Cook
-------	---	--------	---------	------

		Beverage	Attendant	
Introductory	73			
1	78	1	1	
2	82	2	2	1
3	87.4	3	3	2
4	92.4	4		
5	100	5		3
6	105	6		4
7	110			5

The percentage relativities column relates to percentages applying before the application of the \$8.00 arbitrated safety net adjustment made in accordance with the February 1994, Review of Wage Fixing Principles.

Classification	Per Week
	\$
Introductory Level	588.20
Level 1	596.70
Level 2	604.90
Level 3	627.40
Level 4	648.30
Level 5	682.00
Level 6	702.90
Level 7	723.70

The rates of pay in this Award are intended to include the arbitrated wage adjustment payable under the 1 September 2010 Declaration of General Ruling and earlier Safety Net Adjustments and arbitrated wage adjustments. This arbitrated wage adjustment may be offset against any equivalent amount in rates of pay received by employees whose wages and conditions of employment are regulated by this Award which are above the wage rates prescribed in the Award. Such payments include wages payable pursuant to certified agreements, currently operating enterprise flexibility agreements, Queensland workplace agreements, award amendments to give effect to enterprise agreements and overaward arrangements. Absorption which is contrary to the terms of an agreement is not required.

Increases made under previous State Wage Cases or under the current Statement of Principles, excepting those resulting from enterprise agreements, are not to be used to offset arbitrated wage adjustments.

5.3.3 Junior employees

	Percentage of Minimum Adult Rate
	%
Under 17 years of age	55
17 and under 18 years of age	65
18 and under 19 years of age	75
19 and under 20 years of age	85

And thereafter at the appropriate rate prescribed for adults for the class of work being performed.

5.3.4 Soft drink shops

Notwithstanding anything prescribed elsewhere in this Award, special rates of pay and provisions shall apply to junior employees employed in soft drink shops calculated as follows:

	Percentage of Minimum Adult Shop Assistants' Rates
	%
15 and under 16 years of age	45
16 and under 17 years of age	50
17 and under 18 years of age	55
18 and under 19 years of age	65
19 and under 20 years of age	75
20 and under 21 years of age	85

And thereafter at the rate prescribed for adult employees working in soft drink shops.

5.4 Payment of wages

5.4.1 Wages may be paid either weekly or fortnightly and at the discretion of the employer by one of the following means:

- (a) payment directly by electronic funds transfer into an account nominated by the employee without cost to the employee;
- (b) cash; or
- (c) cheque.

5.4.2 Where electronic funds transfer is the method of payment of wages, wages must be available to an employee prior to the normal ceasing time on the normal pay Day and in all other instances employees shall be paid in the employer's time.

5.4.3 The employer may stipulate the completion Day for each pay cycle and payment to employees shall be made no later than the completion of this stipulated pay cycle.

5.4.4 In the case of dismissal of an employee, or of an employee leaving the service of the employer after the prescribed notice has been given, the employee shall be paid all wages due within half an hour of ceasing work. If such wages are not paid within the time prescribed, all waiting time in excess of half an hour shall be paid for at the ordinary time rate of pay with a maximum of 8 hours payment on any one Day.

In the event of an employee leaving without giving the prescribed notice, or in the event of an employee being dismissed without notice, the employee shall be paid all monies due within one hour of bank opening time on the next bank trading Day.

5.4.5 The employer shall provide the employee with the following written details at the time of payment of wages:

- (a) the date of payment;
- (b) the period covered by the payment;
- (c) the number of hours covered by the payment at -
 - (i) ordinary rate of pay;
 - (ii) overtime rate of pay;
- (d) the ordinary hourly rate and the amount paid at that rate;
- (e) the overtime hourly rate and the amount paid at that rate;
- (f) the gross amount of wages and allowances payable;
- (g) the net amount of wages paid;
- (h) details of any deductions made; and
- (i) the amount of contribution paid to an occupational superannuation scheme or fund.

5.4.6 Casual Employees may, by mutual agreement, be paid in accordance with clause 5.4.1 or, in the absence of such agreement, at the termination of each engagement.

5.5 Superannuation

5.5.1 In addition to all other entitlements pursuant to this Award, all eligible employees as defined in clause 5.5.2(b) shall as from 14 August 1989, be entitled to superannuation contributions paid by the employer. Such contributions shall be paid into an approved fund as defined in clause 5.5.2(a) in accordance with the following provisions:

- 5.5.2 (a) An approved fund shall mean:
- (i) Sunsuper;
 - (ii) MTAA Industry Superannuation Fund;

- (iii) Australian Enterprise Superannuation (AES);
 - (iv) Host Super;
 - (v) Metway Super;
 - (vi) Retail Employees Superannuation Trust; or
 - (vii) a fund to which the employer was at 24 May 1989, contributing superannuation payments on behalf of employees, and which complied with the requirements of the relevant Commonwealth Occupational Superannuation legislation;
- (b) Eligible employee shall mean any employee who earns \$450.00 or more in any month. Such employee shall only be deemed to be an eligible employee in those months where the minimum earning requirement is met:
- Provided that an employee under the age of 18 years shall not be deemed to be an eligible employee in any week in which the employee works less than 30 hours.
- (c) Ordinary time earnings for the purpose of clause 5.5 shall mean the gross ordinary pay that the employee receives for the ordinary hours of work performed in the relevant pay period.

5.5.3 Contributions

- (a) Amount - As from 1 January 2005 every employer shall contribute on behalf of each eligible employee an amount calculated at 9% of the employee's ordinary time earnings, into an approved fund, as defined in this clause. Each such payment of contributions shall be rounded off to the nearest ten (10) cents:
- Provided that where an employee is absent and is receiving by way of workers' compensation an amount of money no less than the award rate of pay the contribution shall be calculated at 3%.
- (b) The employer may suspend contributions on behalf of an employee for any period when the employee is absent from work on unpaid leave provided that in relation to an eligible employee, an employer shall continue to make contributions in respect of any period during which an employee is absent from work on WorkCover benefits up to a maximum of 26 weeks.

5.5.4 Future movements

The amount of contribution as prescribed in clause 5.5.3 shall be adjusted to accord with movements in the applicable rate of wages as set out in this Award with the particular classification of the employee concerned. Such contribution shall be rounded off to the nearest ten cents.

5.5.5 General

- (a) The employer shall remit the contributions to the approved fund on a monthly basis.
- (b) Eligible employees may personally make contributions to the approved fund in addition to the employer contributions prescribed by clause 5.5.3. The employer shall, at the employee's written request, make arrangements for such authorised deductions from the employee's pay to be forwarded to the administrators of the approved fund.
- (c) No additional amount shall be charged by the employer for the establishment, administration, management or any other changes in connection with the approved fund.
- (d) Nothing in clause 5.5 shall act to diminish the rights or responsibilities of the trustees of an approved fund as set out in accordance with the Deed of Trust and Rules thereto as amended from time to time.

5.5.6 Alternative funds

- (a) The employer and employee may agree to have the employee's superannuation contributions made to an approved superannuation fund, other than those specified in this award.
- (b) Any such agreement must be recorded in writing and signed by the employer and employee and kept on the employee's file.
- (c) A person must not coerce someone else to make an agreement.
- (d) Such agreement, where made, will continue until such time as the employer and employee agree otherwise, and shall be made available to relevant persons for the purposes of section 371 and section 373 (time and wage

records) of the Act.

- (e) Any dispute arising out of this process will be handled in accordance with the grievance and disputes settling procedure as contained in clause 3.2.

5.6 Laundry allowance

Where an employer does not launder a uniform or clothing, which is provided, then the employer shall pay in lieu thereof an allowance of \$2.95 per week, in the case of full-time employees, and 60 cents per Day in the case of casual or part-time employees.

PART 6 - HOURS OF WORK, BREAKS, OVERTIME, SHIFT WORK, WEEKEND WORK

6.1 Hours of work

6.1.1 Unless otherwise provided in this Award, the ordinary hours of work shall be an average of 38 hours per week worked on any 5 out of 7 Days of the week as follows:

- (i) 152 hours each 4 week period; or
- (ii) 160 hours each 4 week period with a paid Day off, banked per period up to a maximum of 5;

6.1.2 Implementation

The method of rostering such hours shall be by agreement between the employer and the majority of employees concerned subject to the particular needs of the establishment and following conditions:

- (a) Ordinary hours are to be worked within a minimum of 4 hours and a maximum of ten hours per Day and shall be exclusive of meal breaks subject to clause 6.3:

Provided that a maximum of ten ordinary hours may be worked subject to agreement in writing between the employer and employee concerned.

No such extended shifts shall be worked in a manner contrary to the employer's responsibilities to provide a safe and healthy work environment.

Where employees are rostered to work 4 consecutive shifts of ten or more hours per Day, such employees shall not be rostered for work on more than 4 consecutive Days of such hours without a break of at least 48 hours.

- (b) Employees rostered to work shifts of 9 or more ordinary hours in a 4 week period shall be entitled to at least 9 full Days off per period:

Provided that at least 8 Days off will be allowed in any other case.

- (c) No employee shall be rostered to work for more than ten successive Days without a Day off.

6.1.3 Spread of hours

Where broken shifts are worked the spread of hours shall not exceed the ordinary hours by more than 3 hours, not including meal breaks:

Provided that in no case shall the spread of hours exceed twelve hours per Day.

6.1.4 Banking of rostered days off

Where an employee's hours are worked in accordance with clause 6.1.1(ii) the banked rostered Days off shall be taken within twelve calendar months from the date of which the first rostered Day off was accrued.

6.1.5 Transport

An employee who is dependent on public transport and who ceases work after such transport services cease to operate shall be provided with transport home at the employer's expense, either by taxi-cab or such other form of transport acceptable to the employee.

6.1.6 Employees aged less than 18

No employee under the age of 18 years shall work or be permitted to work later than 8.00 p.m. without the consent of

the employee's parents or legal guardians.

6.1.7 *Agreement on hours*

Notwithstanding any other provisions in this Award, the ordinary hours of work of a particular establishment may be agreed in writing between the relevant employer association on behalf of the employer and the Union on behalf of the employees.

6.2 Roster

6.2.1 A roster for all employees showing normal starting and finishing time and the surname and initial of each employee shall be prepared by the employer and posted in a place accessible to the employees concerned. The roster shall be alterable by mutual consent at any time or in the case of full-time and part-time employees who work for a specific number of hours, pursuant to clause 4.3.2 (b) (Part-time employees), by amendment with 7 Days' notice. The 7 Days' notice shall not apply to Casual Employees. Where practicable, 2 weeks' notice of rostered Days off shall be given.

6.2.2 The roster for all employees shall provide for a minimum of 10 hours' break between the finish of ordinary hours on one Day and the commencement of ordinary hours on the following Day.

6.3 Meals and meal times

6.3.1 No employee shall be required to work for more than 6 hours continuously, excluding a rest pause, without an unpaid meal break of at least thirty minutes, or more than one hour.

6.3.2 Where an employee is required to work through their normal meal break the employee shall be paid at the rate of double time for all work so performed and such double time shall continue to be paid until such time as a thirty minute meal break can be taken or until the employee ceases work for the Day.

6.3.3 Any employee who is required to work overtime for more than 2 hours beyond the rostered ceasing time shall be provided with an adequate meal by the employer, or, in the event of the employer being unable to provide such meal, be paid an allowance of \$9.60 in lieu thereof.

6.4 Rest pauses

6.4.1 (a) All employees who work a minimum of 7.6 consecutive ordinary hours (excluding the meal break) on any one Day shall receive a rest pause of ten minutes' duration in the first half and the second half of the period worked.

(b) All employees who work a minimum of 4 consecutive ordinary hours but less than 7.6 consecutive ordinary hours on any one Day shall receive a rest pause of ten minutes' duration.

6.4.2 Rest pauses shall be taken in the employer's time.

6.4.3 Rest pauses shall be taken at times to suit the convenience of the employer and so as not to interfere with the continuity of work where continuity is necessary.

6.4.4 Notwithstanding the provisions of clause 6.4.1 where an employee is rostered to work less than a 9 hour Day and there is agreement between the employer and the majority of employees concerned, the rest pauses may be combined into one twenty minute rest pause, so that the Day is divided into 3 approximately equal work periods.

6.5 Penalty rates

6.5.1 Employees other than casuals, shall be paid for all time worked within their ordinary working hours on a Saturday or Sunday at the rate of time and a-half.

6.5.2 (a) An employee who is required to work any ordinary hours between 10.00 p.m. and 12.00 midnight Monday to Friday inclusive shall be paid an additional \$1.597 per hour for any hour or part thereof for any time worked within the said hours.

A minimum payment of \$2.29 shall apply on any one Day.

(b) An employee who is required to work any ordinary hours between 12.00 midnight and 6.00 a.m. Monday to Friday inclusive shall be paid an additional \$2.329 per hour for any hour or part thereof for any time worked within the said hours. For the purposes of clause 6.5.2 (b) midnight shall include midnight Sunday.

A minimum payment of \$2.29 shall apply on any one Day.

6.5.3 *Savings*

Casuals engaged in businesses which traded on less than 7 Days per week prior to 2 December 1991 are to be paid at the rate of time and one-half calculated on the appropriate wage rate for ordinary work performed on a Sunday. This rate is to be paid to casuals whether engaged prior to or subsequent to 2 December 1991.

6.6 Overtime

6.6.1 All time worked outside of, or in excess of the ordinary hours in clause 6.1 (Hours of work), or outside of the rostered starting and ceasing times shall be deemed to be overtime.

Overtime shall be paid for at the rate of time and a-half for the first 3 hours and double time thereafter.

6.6.2 All time worked on an employees rostered Day off shall be paid at the rate of time and one-half for the first 3 hours and double time thereafter, with a minimum as for 2 hours worked.

6.6.3 All overtime worked on a Sunday shall be paid for at the rate of double time.

6.6.4 (a) An employee who works so much overtime between the termination of ordinary work on one Day and the commencement of ordinary work on the next Day such that the employee has not had at least ten consecutive hours off duty between those times shall, subject to clause 6.6, be released after completion of such overtime until that employee has had ten consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

(b) If, on the instructions of the employer, such an employee resumes or continues work without having had such ten consecutive hours off duty then that employee shall be paid double time until the employee is released from duty for such a period and the employee shall then be entitled to be absent until the employee has had ten consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

6.6.5 Notwithstanding the provisions in clauses 6.6.1 and 6.6.2, there may be an agreement in writing between the employee and the employer to take time off with pay in lieu of payment of overtime. Such time off shall be equivalent to the number of ordinary hours pay that the employee would have received for such overtime. Accumulated time must be taken within twelve months from the time of accrual and at a time mutually agreed between the employee and the employer. Outstanding accrued overtime shall be paid at the appropriate rate in full at the time of termination, for any reason, by either party.

PART 7 - LEAVE OF ABSENCE AND PUBLIC HOLIDAYS

7.1 Annual leave

7.1.1 Every employee (other than a Casual Employee) covered by this Award shall at the end of each year of their employment be entitled to annual leave on full pay as follows:

(a) not less than 5 weeks if employed on shift work where 3 shifts per Day are worked over a period of 7 Days per week; or

(b) not less than 4 weeks in any other case.

Such annual leave shall be exclusive of any public holiday which may occur during the period of that annual leave and (subject to clause 7.1.2) shall be paid for by the employer in advance:

(i) in the case of any and every employee in receipt immediately prior to that leave of ordinary wages at a rate in excess of the ordinary wages payable under clause 5.3 at that excess rate; and

(ii) in every other case, at the ordinary time rate of pay payable to the employee concerned immediately prior to that leave.

If the employment of any employee is terminated at the expiration of a full year of employment, the employer is deemed to have given the leave to the employee from the date of the termination of the employment and shall forthwith pay to the employee, in addition to all other amounts due to the employee, such employee's pay, calculated in accordance with clause 7.1.2 for 4 or 5 weeks as the case may be and also the employee's ordinary time rate of pay for any statutory holiday occurring during such period of 4 or 5 weeks.

If the employment of any employee is terminated before the expiration of a full year of employment, such employee shall be paid, in addition to all other amounts due to the employee, an amount equal to 1/9th of such employee's pay for the period of such employee's employment if the employee is an employee to whom clause 7.1.1(a) applies, and 1/12th of such employee's pay for the period of employment if the employee is an employee to whom clause 7.1.1(b) applies, calculated in accordance with clause 7.1.2

Unless the employee shall otherwise agree, the employer shall give the employee at least 14 Days' notice of the date from which the employee's annual leave shall be taken.

7.1.2 *Calculation of annual leave pay* - Annual leave pay (including any proportionate payments) shall be calculated as follows:

- (a) *Shift workers* - Subject to clause 7.1.2(c), the rate of wage to be paid to a shift worker shall be the rate payable for working ordinary time according to the employee's roster or projected roster, including Saturday, Sunday or holiday shifts.
- (b) *Leading hands, Etc* - Subject to clause 7.1.2 (c) leading hand allowances and amounts of a like nature otherwise payable for ordinary time worked shall be included in the wages to be paid to employees during annual leave.
- (c) *All employees* - Subject to the provisions of clause 7.1.2(d) hereof, in no case shall the payment by an employer to an employee be less than the sum of the following amounts:
 - (i) the employee's ordinary wage rate as prescribed by the Award for the period of the annual leave (excluding shift premiums and week-end penalty rates);
 - (ii) leading hand allowance or amounts of a like nature; and
 - (iii) a further amount calculated at the rate of 17 1/2% of the amounts referred to in clauses 7.1.2(c)(i) and 7.1.2(c)(ii) of this paragraph.
- (d) The provisions of clause 7.1.2(c) shall not apply to the following:
 - (i) any period or periods of annual leave exceeding:
 - (A) 5 weeks in the case of employees employed in a calling where 3 shifts per Day are worked over a period of 7 Days per week; or
 - (B) 4 weeks in any other case.
 - (ii) employers (and their employees) who are already paying (or receiving) an annual leave bonus, loading or other annual holiday payment which is not less favourable to employees.

7.2 Sick leave

7.2.1 Entitlement

- (a) Every employee, except casuals and school-based apprentices and trainees, is entitled to 60.8 hours' sick leave for each completed year of their employment with their employer:

Provided that part-time employees accrue sick leave on a proportional basis.
- (b) This entitlement will accrue at the rate of 7.6 hours' sick leave for each 6 weeks of employment.
- (c) Payment for sick leave will be made based on the number of hours which would have been worked by the employee if the employee were not absent on sick leave.
- (d) Sick leave may be taken for part of a Day.
- (e) Sick leave shall be cumulative, but unless the employer and employee otherwise agree, no employee shall be entitled to receive, and no employer shall be bound to make, payment for more than 13 weeks' absence from work through illness in any one year.

7.2.2 Employee must give notice

The payment of sick leave is subject to the employee promptly advising the employer of the employee's absence and its expected duration.

7.2.3 Evidence supporting a claim

When the employee's absence is for more than 2 Days the employee is required to give the employer a doctor's certificate, or other reasonably acceptable evidence, about the nature and approximate duration of the illness.

7.2.4 Accumulated sick leave

An employee's accumulated sick leave entitlements are preserved when:

- (a) The employee is absent from work on unpaid leave granted by the employer;
- (b) The employer or employee terminates the employee's employment and the employee is re-employed within 3 months;
- (c) The employee's employment is terminated because of illness or injury and the employee is re-employed by the same employer without having been employed in the interim.

The employee accumulates sick leave entitlements whilst absent from work on paid leave granted by the employer.

7.2.5 *Workers' compensation*

Where an employee is in receipt of workers' compensation, the employee is not entitled to payment of sick leave.

7.3 Long service leave

All employees covered by this Award shall be entitled to long service leave on full pay, under, subject to, and in accordance with, the provisions of Chapter 2, Part 3, sections 42-58 of the Act as amended from time to time.

7.4 Bereavement leave

7.4.1 Full-time and part-time employees shall, on the death of a member of their immediate family or household in Australia be entitled to be paid bereavement leave up to and including the Day of the funeral of such person. Such leave shall be without deduction of pay, for a period not exceeding the number of hours worked by the employee in 2 ordinary Days of work. Proof of such death is to be furnished by the employee to the satisfaction of the employer.

7.4.2 *Long-term casual employees*

- (a) A long-term Casual Employee is entitled to at least 2 Days unpaid bereavement leave on the death of a member of the person's immediate family or household in Australia.
- (b) A "long-term Casual Employee" is a Casual Employee engaged by a particular employer, on a regular and systematic basis, for several periods of employment during a period of at least one year immediately before the employee seeks to access an entitlement under clause 7.4.2.

7.4.3 The term "immediate family" includes:

- (a) A spouse (including a former spouse, a *de facto* spouse and a former *de facto* spouse, spouse of the same sex) of the employee; and
- (b) A child or an adult child (including an adopted child, a foster child an ex-foster child, a step-child or an ex-nuptial child), parent, grandparent, grandchild or sibling of the employee or spouse of the employee.

7.4.4 An employee with the consent of the employer, may apply for unpaid leave when a member of the employee's immediate family or household in Australia dies and the period of bereavement leave entitlement provided above is insufficient.

7.5 Family leave

7.5.1 The provisions of the Family Leave Award apply to and are deemed to form part of this Award.

7.5.2 It is to be noted that:

- (a) part-time work can be performed by agreement in the circumstances specified in the Family Leave Award;
- (b) a copy of the Family Leave Award is required to be displayed in accordance with section 697 of the Act.

7.6 Public holidays

7.6.1 All employees will be entitled to a Day off, without deduction of pay, where the employee would ordinarily be rostered to work one of the following public holidays and is not required to perform any duties on that public holiday:

- the 1st January;
- the 26th January;
- Good Friday;

- Easter Saturday (the day after Good Friday);
- Easter Monday;
- the 25th April (Anzac Day)
- Labour Day;
- the birthday of the sovereign;
- Christmas Day;
- Boxing Day;
- Exhibition Day or the appropriate regional show day;
- Any additional days gazetted as public holidays, which have not already been listed above; and
- Any ordinary working day agreed between the employer and the employee to be treated as show holiday in a district in which a holiday is not appointed.

7.6.2 Any employee who works on a public holiday will be paid for a minimum period of 4 hours.

7.6.3 All full-time and part-time employees will be paid 250% of the part-time hourly rate for all hours worked on a public holiday. All Casual Employees will be paid 250% of the casual rate for all time worked on a public holiday. There will not be any extra loadings paid for hours worked on a public holiday.

7.6.4 If there is a substituted Day gazetted or proclaimed for a particular public holiday, the following will apply:

- (a) if an employee is ordinarily rostered to work on the actual public holiday and the substituted Day, then that employee shall elect which Day is to be the public holiday and receive the standard public holiday benefits for that Day. The other Day shall then be worked as a normal rostered Day, without payment of any additional loadings unless the actual public holiday is 25 December. In this case an employee will be entitled to receive a loading of 1/2 of a ordinary Day's wages for working on that Day.
- (b) an employee who is rostered to work the substituted Day and not the actual public holiday will receive public holiday loadings for work done on the substituted Day. In this case, the employee will not receive any additional pay in relation to the actual public holiday.
- (c) an employee who is required to work on either the actual public holiday or substituted Day shall observe the Day on which the employee is rostered to work as the public holiday.

7.6.5 A full-time employee whose non-working Day falls on a public holiday shall receive, by mutual agreement either:

- (a) an additional Day's wages; or
- (b) an additional Day's annual leave; or
- (c) another Day off with pay within 28 Days after the holiday falls or during the week prior to the holiday; or
- (d) an additional Day's wages if the employer and the employee are unable to reach agreement on one of the above 3 options:

7.6.6 A part-time employee whose normal roster includes a public holiday shall either be paid for the ordinary hours that would ordinarily have been worked on that Day or receive the appropriate public holiday rate for all work done on that Day.

Provided that, a part-time employee will also be entitled to the benefits of clauses 7.6.5 (a), (b), (c) and (d) if the public holiday falls on a Day on which the employee works on any week of the employee's roster cycle.

7.6.7 If a full-time or part-time employee:

- (a) is dismissed or stood down by an employer during December;
- (b) is re-employed by the employer before the end of the next January; and
- (c) was employed by the employer for a continuous period of at least 2 weeks immediately before being stood down, then the employer must pay the employee at the ordinary rate payable to the employee immediately before the stand down for the Christmas Day, Boxing Day and the 1st January (New Year's Day) public holidays between the stand down and the re-employment.

7.6.8 Notwithstanding the provisions of clause 7.6 by agreement in writing between the employer and employee, ordinary hours worked by a full-time and part-time employee may be paid at the rate of time and a half for time worked on a public holiday and the employee shall receive either time off with pay equivalent to the time so worked, or have equivalent amount of time added to the employee's annual leave. Where equivalent time off with pay is taken, such time shall be taken at a mutually agreeable time within 28 Days of its accrual. Outstanding accrued time shall be

paid in full at the time of termination, for any reason by either party.

7.7 Trade Union training leave

7.7.1 A Union delegate or duly elected or appointed union representative shall, upon written application by the Union to the employer, such application being endorsed by the Union and given to the employer at least 2 months in advance (or such lesser period as mutually agreed between the Union and employers), be granted up to 5 working Days' leave (non-cumulative) on ordinary pay each calendar year to attend courses or seminars designed and conducted by the Union. The scope, content and level of such courses or seminars shall be such as to contribute to a better understanding of industrial relations within the employer's operations.

7.7.2 Other courses mutually agreed between the Union party to this Award and the employer, or employers, may be included in clause 7.7.1.

7.7.3 Any written application by the Union seeking release of a delegate or representative to attend a course shall include details of the type and content of the course to be attended as well as the dates upon which the course is proposed to be conducted.

7.7.4 For the purposes of clause 7.7.1 "ordinary pay" shall mean the ordinary time earnings paid to the employee exclusive of any allowances, penalty rates or travelling time and fares.

7.7.5 The granting of such leave shall be subject to the following conditions:

(a) the employee must have at least 6 months' continuous service with the employer prior to such leave being granted and be the elected Union delegate/representative.

(b) unless otherwise agreed the maximum number of ordinary hours of leave which an employer shall be required to grant each year will be as follows:

Number of ordinary hours worked by employees per week	Number of ordinary hours leave per calendar year
380 - 1900	38
1901 - 3800	76
3801 and Over	152

(c) where an employer has more than one place of employment in Queensland then the maximum number of employees entitled to attend a course at the same time shall be 2. This shall not prevent an employer from agreeing to release additional employees.

(d) the granting of such leave shall be subject to the convenience of the employer so that the operations of the enterprise will not be adversely affected.

Where an employer approaches the Union and demonstrates genuine difficulties with respect to the release of a particular union delegate or representative at a particular time (including where the employer might have previously advised of its ability to release such union delegate or representative) the Union will not unreasonably press its request for the release of that delegate/representative at that time. If the matter is not amicably resolved, it shall be processed in accordance with the grievance and dispute settling procedure contained in clause 3.2.

(e) in granting such paid leave, the employer is not responsible for any additional costs except the payment of extra remuneration where relieving arrangements are instituted by the employer to cover the absence of the employee.

(f) leave granted to attend such training courses will not incur any additional payment or alternate time off if such course coincides with an employee's Day off in a 19 Day month working arrangement, or with any other concessional leave.

(g) such paid leave will not affect other leave granted to employees under this Award.

(h) on completion of the course the employee shall, upon request, provide to the employer proof of their attendance at the course. Except in the case of sick leave or authorised leave, non-attendance at a training course will result in the employee not being paid for such time.

7.8 Jury service

An employee, other than a casual employee, required to attend for jury service during their ordinary working hours shall be reimbursed by the employer an amount equal to the difference between the amount paid in respect of their attendance for such jury service and the ordinary pay the employee would have been paid if the employee was not absent on jury service.

Alternatively, by agreement, fees (other than meal allowance) received by the employee to attend jury service will be paid to the employer and the employer will continue to pay the employee their ordinary pay for the time the employee was absent on jury service.

Employees shall notify their employer as soon as practicable of the date upon which they are required to attend for jury service and shall provide their employer with proof of such attendance, the duration of such attendance and the amount received in respect thereof.

If the employee is not required to serve on a jury for a day or part of a day after attending for jury service and the employee would ordinarily be working for all or part of the remaining day, the employee must, if practicable, present for work at the earliest reasonable opportunity.

"Ordinary pay" means the rate of pay that an employee would normally expect to receive for working ordinary hours on an ordinary day of the week, including any over-award payment. "Ordinary pay" excludes overtime, penalty rates of all types - including those attaching to working ordinary hours (for example) on a Saturday, disability allowances, shift allowances, special rates, fares and travelling time allowances, bonuses and other ancillary payments of a like nature.

PART 8 - TRANSFERS, TRAVELLING AND WORKING AWAY FROM USUAL PLACE OF WORK

8.1 Travelling expenses

Weekly employees engaged in catering work away from the employers' regular place of business shall be paid reasonable travelling expenses, where the employer does not provide means of conveyance, and for all time occupied in travelling to and from such employment.

PART 9 - TRAINING AND RELATED MATTERS

9.1 Training

9.1.1 A training programme commensurate with the needs of the establishment and/or industry shall be developed by consultation between the employer and the employees consistent with:

- (a) the current and future skill needs of the enterprise;
- (b) the size, structure and nature of the operations of the enterprise;
- (c) the need to develop vocational skills relevant to the enterprise and the industry and will be, where appropriate, provided through courses conducted by accredited educational institutions and providers, accredited industry training courses, and internal company training which qualifies under the *Training Guarantee Act* provisions.

9.1.2 A training programme developed in accordance with clause 9.1.1 will have objectives consistent with:

- (a) developing a more highly skilled and flexible workforce;
- (b) providing employees with career opportunities through appropriate training; and
- (c) meeting the needs of an enterprise and/or the industry.

9.1.3 (a) Where it is agreed between the employer and an employee that training in accordance with the programme developed pursuant to clause 9.1.1 should be undertaken by an employee, that training may be undertaken either on or off the job:

Provided that if the training is undertaken during ordinary working hours the employee concerned shall not suffer any loss of pay.

- (b) Any costs associated with such training, including standard fees for prescribed courses, and prescribed textbooks, incurred in connection with the undertaking of training may be reimbursed by the employer upon production of evidence of expenditure:

Provided that reimbursement may be on an annual basis subject to the presentation of reports of satisfactory progress and/or completion of the course.

- (c) Travel costs incurred by an employee undertaking training in accordance with clause 9.1 which exceed those normally incurred in travelling to and from work may be reimbursed by the employer.

9.1.4 The parties to this Award agree that the operation and effectiveness of clause 9.1 should be reviewed before the Commission not later than 12 months from the date of insertion.

9.2 Traineeship

9.2.1 Objective

The objective of clause 9.2 is to provide the form and substance of the conditions of employment including the rates of pay applicable to persons engaged under the Training and Employment Act 2000. The purpose is to enhance the skill levels and future employment prospects for young people. The primary target being 16 to 18 year olds. Persons aged 15 to 19 may be considered in special circumstances.

An objective of the *Training and Employment Act 2000* is to provide additional employment and training opportunities for young people.

9.2.2 Engagement and training conditions:

- (a) The engagement of a trainee shall not cause the displacement of a full-time employee nor shall a traineeship position replace a full-time position or one created subsequently which is not a trainee position. Nothing contained in clause 9.2 shall be interpreted so as to prevent the recruitment of junior employees by other methods.
- (b) Where possible trainees will be engaged in addition to the numbers required by an employer to meet the work load of the section in which they are to be trained and generally be supervised by employees normally engaged in the work.
- (c) A trainee shall attend an approved on and off the job training course or programme prescribed in the relevant training agreement or as notified to the trainee by State Training Recognition Council.
- (d) The employer shall provide a level of supervision in accordance with an approved training plan during the traineeship period.
- (e) The overall training programme will be monitored by officers of the State Training Recognition Council and training record books may be utilised as part of this monitoring process.

9.2.3 Employment conditions:

- (a) The trainee shall be engaged for a period of twelve months as a full-time employee provided that the trainee may be subject to the satisfactory probationary period of up to one month.
- (b) The trainee is permitted to be absent from work without loss of continuity of employment to attend the off the job training in accordance with the training agreement.
- (c) Where the employment of a trainee by the employer is continued after the completion of the traineeship period, such traineeship period shall be counted as service for all purposes of the Award and for all leave entitlements including long service leave.
- (d) Overtime or shift work shall not be worked by trainees unless it is necessary to enable the requirements of the training plan to be effected.
- (e) Trainees shall be exempt from industrial action with respect to disputes.
- (f) Except as specifically provided in clause 9.2, all other conditions prescribed by this Award shall apply to trainees.

9.2.4 Wages

For the purpose of achieving stability of income for the trainee over the traineeship period, the wage rate for the trainee shall be calculated on the following basis:

Under 18 Years of Age	65% x R x 39/52
18 and Under 19 Years	75% x R x 39/52
19 and Under 20 Years	85% x R x 39/52
20 Years and Over	100% x R x 39/52

Where "R" equals the averaged wage rate (rounded off to the nearest ten cents) prescribed by clause 5.3 of this Award for the following classes of work:

Food and Beverage Attendant Grade 1
Kitchen Attendant Grade 1

and 39 represents the actual weeks spent on the job during a twelve month period of the traineeship.

PART 10 - OCCUPATIONAL HEALTH AND SAFETY MATTERS, EQUIPMENT, TOOLS AND AMENITIES

10.1 Uniforms

10.1.1 Where employees are required to wear a uniform or any other distinctive type of clothing, such uniform or clothing shall be supplied, maintained and laundered at the employer's expense and shall be the property of such employer and shall be returned to the employer upon termination of employment in good order or condition, subject to fair wear and tear.

10.1.2 Where an employer requires an employee to wear a uniform, a sufficient number of uniforms shall be provided by the employer having regard to the number and regularity of shifts worked. Such uniforms shall be replaced on a fair wear and tear basis.

10.1.3 (a) Where uniforms are supplied, an employer may charge a deposit for the supply of such uniforms;

(b) The employer shall refund the amount of the deposit on return of uniforms at the point of termination of employment;

(c) The employer may retain the deposit if the uniforms are not returned on termination; and

(d) The maximum deposit which may be charged is \$40.00 per uniform.

10.2 First aid

In all establishments a first aid cabinet shall be available for employees in cases of accident. Such first aid cabinet shall be kept and maintained in accordance with the provisions of the *Workplace Health and Safety Act 1995* relating to such first aid cabinets.

10.3 Staff amenities

Employers shall provide staff amenities as prescribed under the appropriate Queensland legislation.

PART 11 - AWARD COMPLIANCE AND UNION RELATED MATTERS

11.1 Union encouragement

Preamble

Clause 11.1 gives effect to section 110 of the Act in its entirety. Consistent with section 110 a Full Bench of the Commission has issued a Statement of Policy on Union Encouragement (reported 165 QGIG 221) that encourages an employee to join and maintain financial membership of the Union.

11.1.1 Documentation to be provided by Employer

At the point of engagement, the employer shall provide employees with a document indicating that a Statement of Policy on Union Encouragement has been issued by the Commission, a copy of which is to be kept on the premises of the employer in a place readily accessible by each employee.

The document provided by the employer shall also identify the existence of a union encouragement clause in this Award.

11.1.2 Union delegates

(a) Union delegates and job representatives have a role to play within a workplace. The existence of accredited Union delegates and/or job representatives is encouraged.

(b) The employer shall not unnecessarily hinder accredited Union delegates and/or job representatives in the reasonable and responsible performance of their duties.

11.1.3 Deduction of Union fees

Where arrangements can be entered into, employers are encouraged to provide facilities for the deduction and remittance of Union fees for employees who signify in writing to their employer, their desire to have such membership fees deducted from their wages.

11.2 Time and wages record

11.2.1 An employer must keep, at the place of work in Queensland, a time and wages record that contains the following

particulars for each pay period for each employee, including apprentices and trainees:

- (a) the employee's award classification;
- (b) the employer's full name;
- (c) the name of the award under which the employee is working;
- (d) the number of hours worked by the employee during each Day and week, the times at which the employee started and stopped work each Day, and details of work breaks including meal breaks;
- (e) a weekly, daily or hourly wage rate - details of the wage rate for each week, Day or hour at which the employee is paid;
- (f) the gross and net wages paid to the employee;
- (g) details of any deductions made from the wages; and
- (h) contributions made by the employer on behalf of the employee to a superannuation fund.

11.2.2 The time and wages records must also contain:

- (a) the employee's full name and address;
- (b) the employee's date of birth;
- (c) details of sick leave credited or approved, and sick leave payments to the employee;
- (d) the date when the employee became an employee of the employer;
- (e) if appropriate, the date when the employee ceased employment with the employer; and
- (f) if a Casual Employee's entitlement to long service leave is worked out under section 47 of the Act - the total hours, other than overtime, worked by the employee since the start of the period to which the entitlement relates, worked out to and including 30 June in each year.

11.2.3 The employer must keep the record for 6 years.

11.2.4 Such records shall be open to inspection during the employer's business hours by an inspector of the Department of Industrial Relations, in accordance with Section 371 of the Act or an authorised industrial officer in accordance with sections 372 and 373 of the Act.

11.3 Right of entry

11.3.1 Authorised industrial officer

- (a) An "Authorised industrial officer" is any Union official holding a current authority issued by the industrial registrar.
- (b) Right of entry is limited to workplaces where the work performed falls within the registered coverage of the Union.

11.3.2 Entry procedure

- (a) The authorised industrial officer is entitled to enter the workplace during normal business hours as long as:
 - (i) the authorised industrial officer alerts the employer or other person in charge of the workplace to their presence; and
 - (ii) shows their authorisation upon request.
- (b) Clause 11.3.2(a)(i) above does not apply if the authorised industrial officer establishes that the employer or other person in charge is absent.
- (c) A person must not obstruct or hinder any authorised industrial officer exercising their right of entry
- (d) If the authorised industrial officer intentionally disregards a condition of clause 11.3.2 the authorised industrial officer may be treated as a trespasser.

11.3.3 *Inspection of records*

- (a) An authorised industrial officer is entitled to inspect the time and wages record required to be kept under Section 366 of the Act.
- (b) An authorised industrial officer is entitled to inspect such time and wages records of any former or current employee except if the employee:
 - (i) is ineligible to become a member of the Union; or
 - (ii) is a party to a QWA or ancillary document, unless the employee has given written consent for the records to be inspected: or
 - (iii) has made a written request to the employer that the employee does not want that employee's record inspected.
- (c) The authorised industrial officer may make a copy of the record, but cannot require any help from the employer.
- (d) A person must not coerce an employee or prospective employee into consenting, or refusing to consent, to the inspection of their records by an authorised industrial officer.

11.3.4 *Discussions with employees*

An authorised industrial officer is entitled to discuss with the employer, or a member, or employee eligible to become a member of the Union:

- (a) matters under the Act during working or non working time; and
- (b) any other matter with a member or employee eligible to become a member of the Union, during non-working time.

11.3.5 *Conduct*

An authorised industrial officer must not unreasonably interfere with the performance of work in exercising a right of entry.

11.4 Posting of Award

Every employer shall cause a copy of this Award to be posted up in a conspicuous place readily accessible to employees.

SCHEDULE

List of Employers with 2nd Tier Orders which to Varying Degrees Modify the Provisions of this Award

Name	Case No.	Date of Order
Comalco Fabricators Limited	B210/88	18. 4.88
Q.U.F. Industries Limited and Montague Moulders Pty. Ltd.	B205/89	10. 5.89
Sunshine Securities Pty. Limited and its wholly owned subsidiary Sunshine Plantations Pty. Limited	B790/88	3.11.88
Town, City, Community and Shire Councils and Joint Local Authorities who are Members of the Local Government Association of Queensland Inc.	B838/88	8.11.88 23. 5.89

Dated 12 August 2003.

By the Commission,
[L.S.] E. EWALD,

